

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 356 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5: no

-----  
JAYANTILAL B BAROT

Versus

DISTRICT SUPERINTENDENT OF POLICE

-----  
Appearance:

MR KB PUJARA for Petitioners

MR DP JOSHI,AGP for Respondent No. 1, 2, 3

-----  
CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 27/02/98

ORAL JUDGEMENT

1. The 13 petitioners claim that they are Unarmed Police Head Constables in Banaskantha District. Their grievance is that in the matter of promotion, on due dates, they were not promoted and their juniors were given promotion and they were wrongly superseded. They have,therefore,prayed that a writ of mandamus be issued directing the respondents to give them promotions with

deemed dates, from the dates their juniors were promoted. In the chart annexed to the petition at Annexure C, dates are given. Column no. 6 shows the dates when they were promoted or not promoted at all and column no. 7 shows the claimed deemed date of promotion.

2. In the affidavit in reply, it is pointed out that the dates given in Annexure C by the petitioners are not correct. The case of each petitioner is specifically dealt with in para 3.3 of the affidavit in reply and it is shown as to how each of the petitioner is not entitled to promotion or deemed date of promotion as claimed. Most of the grievances of the petitioners are based on the dates mentioned by them in Annexure C. However, it is seen that the correct dates are as mentioned in the affidavit in reply. In view of para 3.3 of the affidavit in reply, it is clear that the petitioners' claim on the basis of dates given in Annexure C cannot stand.

3. With regard to petitioners nos. 3,4,6 and 9, it is stated in the affidavit in reply that these petitioners were superseded in the matter of promotion as they were not found fit for promotion in their due course and they were subsequently promoted on their being found fit for promotion.

4. Para 3(4) of the petition, the petitioners' averment that there were no adverse remarks in the confidential reports, is denied and it is submitted that the confidential reports of the petitioners nos. 3,4,6 and 9 were adverse and hence they were superseded.

5. In this context, the learned Counsel for the petitioners has submitted that in para 4 of the petition, they have contended that there are no adverse remarks in the confidential reports. It is, therefore, submitted that these adverse remarks, if any, are not communicated to the concerned petitioners. The petitioners' averment in para 4 of the petition is not that adverse remarks were not communicated. The averment is that there are no adverse remarks in the confidential reports. This averment is denied. In fact, the averment in the petition is supported by the affidavit of 1st petitioner only. In fact, such averment should have been made by the concerned petitioner. It is within the knowledge of the concerned petitioner whether the adverse remarks were communicated or not. There is no averment by the petitioners that the adverse remarks were not communicated to them.

6. In any case, after lapse of two decades, it will

be futile to undertake any exercise of finding out whether or not adverse remarks were communicated and what is the effect of it.

7. Having regard to the explanation given in affidavit in reply, there is no merit in this petition. Hence, it is dismissed. Rule discharged.

-----

mhs/-